

**BARCLAY DAMON** <sup>LLP</sup>

**David G. Burch, Jr.**  
*Partner*

April 5, 2024

**VIA ECF**

Hon. Frank P. Geraci, Jr.  
United States District Judge  
United States Courthouse  
100 State Street  
Rochester, New York 14614

***Re: Five Star Bank v. Katherine Mott et al.***  
***Case No. 24-cv-06153-FPG***

Dear Judge Geraci:

As you know, Barclay Damon LLP represents Plaintiff Five Star Bank (“Plaintiff”) in the above referenced matter. In light of this Court’s Decision and Order dated April 4, 2024 granting Plaintiff’s motion for the appointment of a receiver over the financial affairs of the Defendant entities (ECF No. 36), Plaintiff proposes for the Court’s consideration the following two individuals to serve as receiver:

1. Honorable Eugene F. Pigott, Jr., retired New York Court of Appeals Judge; and
2. Mark R. Kercher, CPA, former CFO and court-appointed Plan Administrator of Eastern Niagara Hospital (Debtor in Possession).

Plaintiff has enclosed with this letter the resumes of both Judge Pigott and Mr. Kercher as well as Plaintiff’s proposed Order. As set forth in the proposed Order, we are also proposing that either Judge Pigott or Mr. Kercher have the ability to retain an accounting firm or other professionals to assist in executing the receiver’s duties. We circulated the proposed Order to Attorney Rothenberg earlier today, and we understand that the Court has granted his request for an extension to provide comments on the proposed Order until Sunday, April 7 at 1 p.m. We are, however, filing the proposed Order so as to ensure compliance with the April 5, 2024 deadline set forth in the Court’s Decision and Order.

We are available for a conference with the Court if Your Honor would like to discuss this further.

Respectfully submitted,  
*/s/ David Burch*  
David G. Burch, Jr.

cc: All Counsel of Record via ECF

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